

AMENDED IN ASSEMBLY JUNE 21, 2005

AMENDED IN SENATE MAY 27, 2005

AMENDED IN SENATE MARCH 30, 2005

AMENDED IN SENATE MARCH 10, 2005

SENATE BILL

No. 12

Introduced by Senator Escutia

(Principal coauthor: Senator Alquist)

**(Coauthors: Senators Cedillo, Figueroa, Kuehl, Lowenthal,
Romero, Scott, Speier, and Torlakson)**

(Coauthors: Assembly Members Chan, Goldberg, Jones, Koretz,
Leno, Levine, Montanez, *Pavley*, and Saldana)

December 6, 2004

An act to amend Sections 49430 and 49431 of, and to add Section 49431.2 to, the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

SB 12, as amended, Escutia. School food nutrition.

Existing law prohibits the sale of certain beverages and food items at elementary schools, and middle and junior high schools participating in a pilot program.

This bill would, commencing July 1, 2007, revise those provisions ~~to include, among other things, portion size restrictions~~ *as specified in the bill*.

The bill would prohibit the sale of certain beverages and food items at all middle, junior high, and high schools, commencing July 1, 2007.

The bill would provide the intent of the Legislature that the governing board of a school district annually review its compliance with certain nutrition standards.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

- 1 SECTION 1. The Legislature hereby finds and declares all of
2 the following:
- 3 (a) The State of California has the second highest rate of
4 overweight and low-income children in the nation.
- 5 (b) The growing epidemic of overweight children is due to
6 poor diet and physical inactivity, putting growing numbers of
7 California children at risk for type 2 diabetes, hypertension, heart
8 disease, and cancer, along with psychological problems,
9 including low self-esteem, poor body image, and symptoms of
10 depression.
- 11 (c) Physical inactivity and nutrition-related diseases are the
12 second leading cause of preventable death in the United States.
13 These diseases account for 28 percent of preventable deaths each
14 year, which is more than AIDS, violence, car crashes, alcohol,
15 and drugs combined.
- 16 (d) In 2001, 26.5 percent of California pupils in grades 5, 7,
17 and 9 were overweight, with rates being even higher for
18 African-American children (28.6 percent) and Latino children
19 (33.7 percent). In some legislative districts, more than 35 percent
20 of pupils are overweight. Nationally, the prevalence of
21 overweight children and adolescents has increased nearly
22 fourfold in the last 40 years.
- 23 (e) Obesity costs California an estimated \$21.7 billion a year
24 in medical costs and lost productivity. Medical care costs
25 associated with obesity are greater than those associated with
26 both smoking and problem drinking.
- 27 (f) Diabetes has also reached epidemic levels primarily as a
28 result of the growing obesity epidemic. Type 2 diabetes, which
29 until recently affected only adults, now affects a growing number
30 of children, accounting for almost 50 percent of new diabetes
31 cases among children in some U.S. communities.
- 32 (g) Healthy eating plays an important role in learning and
33 cognitive development. Children who do not get adequate
34 nutrients have lower academic test scores.

1 (h) Because children spend approximately one-third of their
2 day at school, schools play an important role in children's ability
3 to acquire adequate nutrients.

4 (i) A recent study found that severely overweight pupils miss
5 nine days of school per year. The same study estimated that
6 average size school districts in California may lose as much as
7 one hundred sixty thousand dollars (\$160,000) per year, and very
8 large districts may lose as much as \$15 million per year as a
9 result of reduced average daily attendance resulting from
10 childhood obesity-related absences.

11 (j) Health and education leaders agree that one of the most
12 critical steps to helping children practice healthy eating habits is
13 to establish policies and programs that increase access to healthy
14 foods and beverages.

15 (k) While the United States Department of Agriculture
16 (USDA) regulates the nutrient content of meals sold under its
17 reimbursable meal programs, similar standards do not exist for
18 “competitive foods” that are sold outside the USDA meal
19 programs. Competitive foods are often very high in added sugar,
20 sodium, and fat.

21 (l) In a 2003 survey, 94 percent of responding California
22 school districts with a high school reported that they sell
23 competitive foods. The most common fast food items were chips,
24 pizza, cookies, and soda.

25 (m) Only 2 percent of California youth 12 through 17 years of
26 age consume foods that meet national dietary recommendations.
27 Approximately 70 percent of U.S. children age 2 through 11
28 years consume foods that exceeded current dietary
29 recommendations for intakes of total and saturated fat. Only 21
30 percent of California children meet the goal of eating five
31 servings of fruits and vegetables per day.

32 (n) Soft drinks comprise the leading source of added sugar in a
33 child’s diet. Each additional daily serving of sugar-sweetened
34 soda increases a child’s risk for obesity by 60 percent. Twenty
35 years ago, boys consumed more than twice as much milk as soft
36 drinks, and girls consumed 50 percent more milk than soft
37 drinks. By 1966, both boys and girls consumed twice as many
38 soft drinks as milk.

39 (o) Teenage boys consume twice the recommended amount of
40 sugar each day, almost one-half of which comes from soft drinks.

1 Teenage girls consume almost three times the recommended
2 amount of sugar, 40 percent of which comes from soft drinks.

3 (p) In October 2004, the USDA announced the “Healthier US
4 Challenge” to encourage schools and parents to continue
5 promoting healthy lifestyles for children. Schools can participate
6 in the challenge by meeting nutritional standards that are based
7 on California standards. The challenge is available to elementary
8 schools during the first year and middle and high schools will be
9 invited to participate during the second year.

10 SEC. 2. Section 49430 of the Education Code is amended to
11 read:

12 49430. As used in this article, the following terms have the
13 following meanings:

14 (a) “Elementary school” means a public school that maintains
15 any grade from kindergarten to grade 6, inclusive, but no grade
16 higher than grade 6.

17 (b) “Middle school” means any public school that maintains
18 grade 7 or 8, 7 to 9, inclusive, or 7 to 10, inclusive.

19 (c) “High school” means any public school maintaining any of
20 grades 10 to 12, inclusive.

21 (d) “Full meal” means any combination of food items that
22 meet ~~a USDA-approved meal pattern~~ *USDA-approved School*
23 *Breakfast Program or National School Lunch Program meal*
24 *pattern requirements.*

25 (e) “Added sweetener” means any additive other than 100
26 percent fruit juice that enhances the sweetness of a beverage.

27 (f) “Sold” means the exchange of food for money, coupons, or
28 vouchers.

29 (g) “Entrée” means a food that is generally regarded as being
30 the primary food in a meal, and shall include, but not be limited
31 to, sandwiches, burritos, pasta, and pizza.

32 (h) “Snack” means a food that is generally regarded as
33 supplementing a meal, including, but not limited to, chips,
34 crackers, onion rings, nachos, French fries, donuts, cookies,
35 pastries, cinnamon rolls, and candy.

36 SEC. 3. Section 49431 of the Education Code is amended to
37 read:

38 49431. (a) Commencing July 1, 2007, at each elementary
39 school ~~the sale of all foods~~ *all foods sold* on school grounds shall
40 be approved for compliance with the nutrition standards in this

1 section by the person or persons responsible for implementing
2 these provisions as designated by the school district.

3 (b) (1) At each elementary school, the only food that may be
4 sold to a pupil during breakfast and lunch periods is food that is
5 sold as a full meal. This paragraph does not prohibit the sale of
6 fruit, nonfried vegetables, dairy products, whole grain products,
7 or legumes, as individual food items if they meet the
8 requirements set forth in this subdivision: *sold to a pupil during*
9 *the school day are full meals, fruit, nonfried vegetables, and*
10 *legumes.*

11 (2) ~~Foods~~ *A dairy or whole grain food may be* sold to pupils at
12 an elementary school, except food sold as part of a USDA meal
13 program, ~~shall meet if it meets~~ all of the following standards:

14 (A) Not more than 35 percent of its total calories shall be from
15 fat. This subparagraph does not apply to the sale of ~~nuts, nut~~
16 ~~butters, seeds, eggs,~~ cheese packaged for individual sale, ~~fruits,~~
17 ~~nonfried vegetables, or legumes.~~

18 (B) Not more than 10 percent of its total calories shall be from
19 saturated fat. This subparagraph does not apply to ~~eggs or~~ cheese
20 packaged for individual sale.

21 (C) Not more than 35 percent of its total weight shall be
22 composed of sugar, including naturally occurring and added
23 sugar. ~~This subparagraph does not apply to the sale of fruits or~~
24 ~~vegetables.~~

25 ~~(D) Portion size for a la carte sales in a cafeteria shall not~~
26 ~~exceed the serving size of the food served in the National School~~
27 ~~Lunch Program or School Breakfast Program. Food items sold~~
28 ~~through vending machines shall not exceed 200 calories per item.~~
29 ~~sugar.~~

30 *(D) Not more than 150 calories per individual food item.*

31 (c) An elementary school may permit the sale of food items
32 that do not comply with subdivision (a) or (b) as part of a school
33 fundraising event in any of the following circumstances:

34 (1) The items are sold by pupils of the school and the sale of
35 those items takes place off of school premises.

36 (2) The items are sold by pupils of the school and the sale of
37 those items takes place at least one-half hour after the end of the
38 schoolday.

(d) It is the intent of the Legislature that the governing board of a school district annually review its compliance with the nutrition standards described in this section and Section 49431.5.

SEC. 4. Section 49431.2 is added to the Education Code, to read:

49431.2. (a) Commencing July 1, 2007, ~~foods~~ *snacks* sold to a pupil in middle, junior, or high school, except food served as part of a USDA meal program, shall meet all of the following standards:

(1) Not more than 35 percent of its total calories shall be from fat. This paragraph does not apply to the sale of nuts, nut butters, seeds, eggs, cheese packaged for individual sale, fruits, nonfried vegetables, or legumes.

(2) Not more than 10 percent of its total calories shall be from saturated fat. This subparagraph does not apply to eggs or cheese packaged for individual sale.

(3) Not more than 35 percent of its total weight shall be composed of sugar, including naturally occurring and added sugars. This paragraph does not apply to the sale of fruits or *nonfried* vegetables.

~~(4) Portion size for a la carte sales shall not exceed the serving size of the food served in the National School Lunch Program or School Breakfast Program. Food items sold through vending machines shall not exceed 200 calories per item.~~

~~(4) No more than 250 calories per individual food item.~~

(b) Commencing July 1, 2007, entrée items sold to a pupil in middle, junior, or high school, except food served as part of a USDA meal program, shall contain no more than 400 calories per individual food item, shall contain no more than 4 grams of fat per 100 calories contained in each individual food item, and shall be categorized as entrée items in the School Breakfast Program or National School Lunch Program.

~~(b)~~

(c) A middle, junior, or high school may permit the sale of food items that do not comply with subdivision (a) or (b) in any of the following circumstances:

(1) The sale of those items takes place off of school premises.

(2) The sale of those items takes place on school premises at least one-half hour after the end of the schoolday.

1 (3) The sale of those items occurs during a school-sponsored
2 pupil activity after the end of the schoolday.
3 ~~(e)–~~
4 ~~(d)~~ It is the intent of the Legislature that the governing board
5 of a school district annually review its compliance with the
6 nutrition standards described in this section.

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